

APPROVED: Meeting No. 39-85

ATTEST: *Helen M. Heneghan*

MAYOR AND COUNCIL

ROCKVILLE, MARYLAND

MEETING NO. 36-85

July 8, 1985

The Mayor and Council of Rockville, Maryland, convened in executive session in the City Manager's Conference Room, Rockville City Hall, Maryland at Vinson Street, Rockville, Maryland, on Monday, July 8, 1985, at 7:30 p.m. for consultation with legal counsel.

There being no further business to come before the Mayor and Council in executive session, the meeting was adjourned at 7:55 p.m.

The Mayor and Council of Rockville, Maryland, convened in general session in the Council Chamber, Rockville City Hall, Maryland at Vinson Street, Rockville, Maryland, on Monday, July 8, 1985, at 8:00 p.m.

PRESENT

Mayor Viola D. Hovsepian

Councilman Steve Abrams

Councilman Douglas Duncan

Councilman Peter R. Hartogensis

Councilman John Tyner, II

The Mayor in the Chair.

In attendance: City Manager Larry Blick; City Clerk Helen Heneghan; City Attorney Paul Glasgow.

Re: City Manager's Report

Mr. Blick reported the following:

1. He introduced the three high school interns who have been selected to work for the City. All three are from Richard Montgomery and live in the City. They are James Beatty, Roger Foote, and Stephanie Bodison. The interns present were greeted by the Council.

2. The Mayor and the Assistant City Manager assisted in testimony today before the County Council concerning amendments to the County's Revenue Sharing Program. A decision is expected tomorrow morning.

3. The new traffic signal on Shady Grove Road at Research Boulevard is now operational.

Councilman Tyner displayed the award that was given to the firm of Ward and Hall for the City Hall design and presented it to the City. The Mayor said it would be hung in a suitable place in City Hall.

Mayor Hovsepien reported on the testimony before the County Council this morning and noted that Councilman Hanna and the County Executive are requesting no change. But, if a change is proposed they feel it should go to a municipal task force for further study but no unilateral change should be made.

Re: Proclamation: To
Salute the Beall-
Dawson Civil War
Encampment

Proclamation No. 12-85

There being no objection from the Council, Mayor Hovsepien proceeded to issue Proclamation No. 12-85, saluting the Beall-Dawson Civil War Encampment. Councilman Tyner read the proclamation at the request of the Mayor in which it was urged that citizens visit the encampment listen, look and learn the lesson of the past. Nancy Hafer, President of the Montgomery Historical Society accepted the proclamation on behalf of the group and invited everyone to attend.

Re: Appointments

Mayor Hovsepien proposed the appointment of Nancy G. Cooper to the Traffic and Transportation Commission for a two year term. The appointment was confirmed by the Council.

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Re: Citizen's Forum

The Mayor opened the meeting to those citizens who wished to address the Mayor and Council:

1. William Hickman. Mr. Hickman asked if the staff has researched the legal status of the wooded ground in College Gardens. The City Manager said that has not been done yet but the staff will be working on it very soon.

2. Kenneth Sullivan, 1988 Lancashire Way. Mr. Sullivan said there has been an increase in traffic on Ritchie Parkway but no increase in overhead lights. This should be addressed to make the road safer. He also suggested more attention be given to the construction of bikeways. This process should be coordinated with Montgomery County and follow the City's Bikeway Plan.

3. Richard Arkin, 525 Lynch Street. Mr. Arkin, in a prepared statement, addressed the Council concerning the new Westmont Plan and asked why the Mayor and Council is in a hurry to proceed with the Plan. He suggested the Council should adopt a wait-and-see attitude since any new Westmont Plan could be a serious threat to the City's effort downtown.

4. Farid Srour. Mr. Srour spoke to the proposed increase in cost of storm water management waivers from \$12,000 to \$20,000 an acre. He suggested that since his building is under construction he should be able to get an application at the present rate rather than pay in the future at the increased rate. Councilman Abrams asked if any credit can be given for absorptiave pavement capacity on site. The City Manager said that option is available unless there is a problem with health and safety. The City Manager was under the impression that Mr. Srour had agreed to pay the increase in cost. However, he will look into it and get back to the Council.

There being no other citizen wishing to be heard, the Mayor closed the citizen's forum portion of the meeting.

Re: Adoption of Ordinance: To grant Map Amendment Application, M-42-85, J. Lynott, Jr., Attorney for Wm. E. Rickman, requesting the rezoning of an 11.78 acre tract on Research Blvd. from the I-2, Light Industrial Zone to the I-3, Industrial Park Zone

Ordinance No. 18-85

On motion of Councilman Hartogensis, duly seconded and unanimously passed, Ordinance No. 18-85, the full text of which can be found in Ordinance Book No. 12 of the Mayor and Council, rezoning an 11.78 acre tract on Research Boulevard from I-2 to I-3 was adopted by the Council.

Re: Adoption of Ordinance: To amend Chapter 10 of the Laws of Rockville entitled Property Maintenance Code to allow property violations to be corrected by the City and the costs to be assessed in the same manner as property taxes

Ordinance No. 19-85

On motion of Councilman Abrams, duly seconded and unanimously passed, Ordinance No. 19-85, the full text of which can be found in Ordinance Book No. 12 of the Mayor and Council, amending Chapter 10 of the Laws of Rockville allowing for property violations to be corrected by the City and the costs to be assessed in the same manner as property taxes, was adopted by the Mayor and Council.

Re: Award of Contract: Bid No. 7-86, Smoothseal

Bids were opened for the Fiscal Year 86 smoothseal contract at 3:00 p.m., Thursday, June 27, 1985, in the Mayor and Council Chambers. One bid was received as follows:

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F.O. Day Company, Rockville, MD (\$42.50 per ton)	\$218,455
Engineer's Estimate	\$200,240
Budget Appropriation	\$200,000

Smoothseal is a thin (1/2" to 3/4" thick) asphalt paving overlay which improves skid resistance and aesthetic quality, while extending paving life through improved water seal and additional asphaltic depth. The process has been used in Rockville since 1960.

The current bid is based on 5006 tons of smoothseal and utility adjustments for various streets. A contractual provision was included which allows the City the option to adjust the quantities to utilize the total Smoothseal appropriation.

This year's per ton cost is 23% higher than last year, but this is reflective of today's construction costs and the increase in costs of liquid asphalt. Also the paving contractors have more than a sufficient number of projects to keep them busy, which additionally tends to increase the prices. Historically, for this type of operation, the City receives quotes from two bidders and one of them, A. H. Smith Company submitted a letter, for this contract, stating that he could not bid this year due to an excessive workload. Although the per ton cost appears to be high, as compared to last year, it is in fact, a realistic and fair unit price.

The low bidder, F. O. Day Company is an experienced paving contractor who has previously performed this work for the City in a satisfactory manner.

Staff recommends that the Mayor and Council award the Smoothseal contract to the low bidder, F. O. Day Company, at the unit price quoted and in the total amount of the appropriation of \$200,000.00.

Councilman Hartogensis abstained from consideration of this item due to the potential of a conflict of interest.

Mr. Goodin explained why only one company had bid this year.

On motion of Councilman Duncan, duly seconded and passed by unanimous vote of all voting (Councilman Hartogensis abstaining) Bid No. 7-86 for Smoothseal was awarded to the only bidder, F.O. Day Company at \$42.50 per ton in the total amount of the appropriation for \$200,000.

Re: Public Hearing: Charter Amendment No. 45 - Filling a vacancy in the office of Mayor occurring within the first six months of the term shall be filled by special election.

The Mayor and Council conducted a public hearing on Charter Amendment No. 45 and heard those persons as will be found in the official stenographic transcript of the hearing. There being no other person wishing to be heard, the Mayor declared the hearing closed with the record to be held open for two weeks.

Re: Public Hearing: Charter Amendment No. 46 - Limiting the terms of the Mayor and Council to two (2) and three (3) consecutive terms in office respectively

The Mayor and Council conducted a public hearing on Charter Amendment No. 46 and heard those persons as will be found in the official stenographic transcript of the hearing. There being no other person wishing to be heard, the Mayor declared the hearing closed with the record to be held open for two weeks.

Re: Public Hearing: Annexation Petition, X-96-85, Ali Mustafa Ali Elquirem, Applicant, requests the enlargement of the boundaries of the City of Rockville by including 2.00 acres of land located at the southwest corner of Westmore Road and Westmore Avenue

The Mayor and Council conducted a public hearing on Annexation Petition X-

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96-85, requesting the enlargement of the boundaries of the City of Rockville by including 2.00 acres of land located at the southwest corner of Westmore Road and Westmore Avenue, and heard those persons as will be found in the official stenographic transcript of the hearing. There being no other citizen wishing to be heard, the Mayor closed the hearing with the record to be held open for two weeks.

Re: Adoption of Ordinance:
Special Assessment
Project - To levy
assessments - Driveway
Aprons - various
locations. Project No.
4D12

Ordinance No. 20-85

On motion of Councilman Duncan, duly seconded and unanimously passed, Ordinance No. 20-85, the full text of which can be found in Ordinance Book No. 12 of the Mayor and Council, levying assessments for driveway aprons at various locations, was adopted by the Mayor and Council.

Re: Public Hearing: Removal
or temporary suspension of
A. Howard Metro from the
office of Commissioner on
the Historic District
Commission

The Mayor and Council conducted a public hearing on the removal or temporary suspension of A. Howard Metro from the office of Commissioner on the Historic District Commission, and heard those persons as will be found in the official stenographic transcript of the hearing. There being no other citizen wishing to be heard, the Mayor declared the hearing closed with the record to be held open until Monday, July 15, 1985, at 5:00 p.m.

Re: Public hearing: Removal
or temporary suspension of
Charles S. Rand from the
office of Commissioner on
the Historic District
Commission

The Mayor and Council conducted a public hearing on the removal or temporary suspension of Charles S. Rand from the office of Commissioner on the Historic District Commission, and heard those persons as will be found in the official stenographic transcript of the hearing. There being no other citizen wishing to be heard, the Mayor declared the hearing closed with the record to be held open until Monday, July 15, 1985, at 5:00 p.m.

Re: Approval of 1985
Legislative Requests to
Maryland Municipal League

Staff suggests that the City submit the legislative request form for the following items:

1. Hotel/Motel Tax - This request for state legislation would enable municipalities to levy a hotel tax. At present, Montgomery County levies a 5% tax on room rentals to persons obtaining sleeping accommodations for seven days or less in a hotel. In FY 1984, Montgomery County collected \$500,000 from hotels located within the City of Rockville. This was 21% of the County's total hotel tax revenue. The City of Rockville, however, received no share of the County hotel tax revenues from hotels within its City limits.
2. Police Concurrent Jurisdiction - Rockville Police officers routinely travel on roads which go in and out of the City's limits in order to get from one part of the community to another. The best examples of this are Montrose Road and Gude Drive. If required to take Police action while on these roadways, the City officer acts without the full Police powers associated with his or her office. They act, in effect, as citizens. Some view the passage of Good Samaritan legislation and the City's willingness to indemnify the officers as sufficient protection for action taken outside the City's corporate limits. Staff does not share this view. There is a need for clear statutory authority for City police officers who act in these circumstances.
3. F. Scott Fitzgerald Theatre Bill - This would request \$750,000 in state funds to provide needed renovations and construct additions to the F. Scott Fitzgerald Theatre.

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The Mayor and Council approved the submission of legislative action request to the Maryland Municipal League with the hotel/motel tax issue and the issue of police concurrent jurisdiction. Funding for the F. Scott Fitzgerald Theatre will be attempted through state bonding and will be processed as a request through the State delegation from Rockville.

Re: Award of Contract:
COG Bid Y-58797
Diesel Fuel

The Invitation for Bid (IFB) was issued for the purchase of #2 Diesel Fuel for Truck Transport and Tank Wagon quantity deliveries. Truck Transport is 4,000 gallons or more and Tank Wagon is less than 4,000 gallons. Bids were allowed on both a Firm Fixed Price Basis and on an Escalating/Deescalating basis. For purposes of evaluation, the Invitation for Bid stated that the Contract will be awarded to the lowest firm fixed price bid unless the lowest escalating/deescalating price bid is more than 5% lower.

TRUCK TRANSPORT #2 DIESEL DELIVERED (Motor Vehicle Maintenance)

<u>Company</u>	<u>Firm Fixed Price</u>	<u>Escalating/Deescalating Price</u>
Petron Trading	\$.7326/gallon	\$.7456/gallon
Phoenix Petroleum	\$.7347/gallon	\$.7647/gallon
Steuart Petroleum	\$.7347/gallon	\$.7330/gallon
Green Fuel	\$.7543/gallon	No Bid
Gulf Oil	No Bid	\$.7358/gallon
S. E. Meintzer	No Bid	\$.7601/gallon
Tricontinental	No Bid	\$.7923/gallon
Fannon	No Bid	\$.7923/gallon
Andigo	No Bid	\$.8050/gallon

The firm fixed price submitted by Petron Trading is the lowest overall price on either a firm fixed price or escalating/deescalating basis. The estimated cost to the City based on that price is \$35,164.80 for an estimated quantity of 48,000 gallons. Last year's price to the City from Langham-Hill Petroleum was \$.8343/gallon. The City's current pricing is 12.2% less.

TANK WAGON #2 Diesel Delivered (City Hall Emergency Generator)

<u>Company</u>	<u>Firm Fixed Price</u>	<u>Escalating/Deescalating</u>
Petron Trading	\$.7926/gallon	\$.8056/gallon
Green Fuel	\$.8023/gallon	No Bid
Fannon	No Bid	\$.8324/gallon
S. E. Meintzer	No Bid	\$.7833/gallon

Under the terms of the Invitation for Bid, award is made on a firm fixed price basis to Petron Trading. The estimated cost to the City for the next twelve months is \$805.60 based on a requirement of 1,000 gallons. Last year's price to the City from Lanham-Hill Petroleum was \$.8793/gallon. The current pricing is 8.4% less. WMATA (Washington Metropolitan Area Transit Authority) has current contracts with Petron Trading and has found the company's performance to be satisfactory.

It is recommended that award be made to Petron Trading in the amount of \$35,970.00 as a cooperative purchase against the Council of Governments sponsored Invitation for Bid.

On motion of Councilman Abrams, duly seconded and unanimously passed, award was made to Petron Trading in the amount of \$35,970.00.

Re: Approval of Minutes

On motion of Councilman Duncan, duly seconded and unanimously passed, the Minutes of Meeting No. 34-85, June 10, 1985, were approved as corrected.

Re: Correspondence

The Mayor and Council noted the following items of correspondence:

1. R. S. McGarry, acknowledgment of City testimony
2. Women's Interfaith Service, re Rockville Caregivers recognition

Mayor Hovsepian suggested a proclamation and reception be done for the Caregivers. Councilman Duncan agreed it was a good idea as did Councilman Hartogensis. Councilman Tyner asked the staff to come back with a report to the Mayor and Council on the cost that might be anticipated both actual and in terms of lost revenue.

3. Keith Fisher, re philosophy of Civic Center use

Councilman Tyner said he had asked the staff for some background information on this request. The Mayor agreed she had asked the same.

4. Bruce Lackey, re naming of City's streets

Councilman Hartogensis asked if the City had looked into renaming streets as Mr. Lackey suggested. The City Manager said the street naming in the City could be simpler but the Public Safety Services have not requested a change and many citizens do not wish to have their street name changed. The Mayor asked that the City Manager work through the citizen associations and ask the citizens association to come back with a recommendation from the citizens.

5. John H. Pettit, re imposed height restriction

6. Gerri E. Bartree, re neighborhood problem

7. Hal Kassoff, re I-270 widening and noise barriers

Mayor Hovsepian will respond to this letter. She asked that the information be forwarded to the civic associations.

8. National League of Cities, re Revenue Sharing

9. Letters from Lincoln Park Community re Community Day and shelters

10. Councilman Fosler, re Day Care facility

Mayor Hovsepian said the staff is looking into the use of Lone Oak School and will be getting back to the Mayor and Council with a report on costs.

11. County Executive re advance on franchise fee payments

12. Walt Mason, re commendation of City employee

13. Betty Carter, re naming of City park

Re: Information Items

The Mayor and Council noted the following items of Information:

1. Copy of letter re Landlord/Tenant Case
2. Letter of complaint
3. Petition from residents of Midway Avenue requesting speed bumps
4. Senior Center Newsletter
5. Notice of Appeal Civil No. 5546
6. Memo re Increase in Use of Lincoln Park Community Center

7. Memo re Closing Out Activities of STAR

Councilman Duncan suggested that the staff proceed with this suggestion to close out STAR. It was the consensus of the Council that it should be done. Councilman Tyner asked that the staff come back to the Council with a report on FITZ-TICK since the Rockville Little Theatre President has questioned its utility.

8. High School Intern Report

9. Response to citizen request

10. Memo from CR re Scope of Operation of Youth Outreach Workers

11. Letter re City CIP from County Office of Planning

12. Copy of letter to PTSA presidents re "Area 2 Study Alternatives"

Councilman Abrams noted that the Education Commission will be holding a meeting with PTSA presidents tomorrow evening here.

13. Memo re Ride-On Bus Service

Councilman Hartogensis asked that there be an article in the City Newsletter about Ride-On to give the public every opportunity to support the system before there is any curtailment.

14. Copy of letter to Dr. Schoenberg re "Area 2 Study Alternatives"

15. Memo from City Attorney re Westmont Hearing

Re: New Business

1. Councilman Abrams suggested it would be worthwhile for the Mayor and Council to meet with the Economic Development Office of Montgomery County in order to conduct a debriefing of the Westmont process and get their ideas for the use of 200 acre tract of commercially zoned land. Councilman Tyner agreed it was an excellent idea and suggested that the meeting not be confined to Westmont but embrace other economic areas.

2. Councilman Abrams noted that the Mayor had met with representatives of the Treatment Center and asked if there was any report. Mayor Hovsepian said Mr. Scher and Mr. Pavlin will be putting the items discussed in writing and it is their feeling since no more staff are parking on the street that the district should be lifted and the City should contribute money to offset the cost.

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3. Councilman Abrams asked if the Council could have a copy of the COG report on affordable housing for the work session on Housing Policy and also background information on a Washington Post article on Arlington County Housing and related considerations with schools.

4. Councilman Abrams commended the staff for the tremendous 4th of July celebration and the "yeomen's job" that they did as usual. He said it was a tremendous evening and all enjoyed it. He added that there has always been an unwritten rule that political campaigning was not conducted at City events by Mayor and Council candidates. He would wish that candidates would keep that in mind so that the City sponsored events can be kept free of partisan politics.

5. Mayor Hovsepian noted she has received a response from EDS which she read. Councilman Abrams said although he appreciated the response he is quite offended by it since at no time during the process was the information in the letter shared with the Mayor and Council.

Re: Executive Session

On motion of Councilman Hartogensis, duly seconded and unanimously passed, the meeting was closed for executive session for consultation with legal counsel.

Re: Adjournment

There being no further business to come before the Mayor and Council in executive session, the meeting was adjourned at 11:10 p.m. to convene again on Monday, July 15, 1985, at 8:00 p.m. or at the call of the Mayor.